

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF WEST VIRGINIA  
MARTINSBURG**

**JEFF WITTMAN OF IMPULSE  
MONITORING, INC.,**

Plaintiff,

**v.**

**CIVIL ACTION NO. 3:14-CV-50  
(JUDGE GROH)**

**HUMANA HEALTH PLAN, INC.,**

Defendant.

**ORDER EXTENDING TIME FOR PLAINTIFF TO FILE RESPONSE**

On April 21, 2014, Plaintiff Jeff Wittman of Impulse Monitoring, Inc. filed a complaint in the Magistrate Court of Hampshire County, West Virginia against Defendant Humana Health Plan, Inc. Though the complaint's caption references Jeff Wittman, the complaint states that the Plaintiff is Impulse Monitoring, Inc., a corporation. An attorney is not representing the Plaintiff. Instead, Mr. Wittman, whose title appears on the complaint as "Director of Business Operations," signed the complaint on the Plaintiff's behalf. On May 19, 2014, the Defendant removed this case to this Court, and it based jurisdiction on 28 U.S.C. § 1442(a)(1).

On May 20, 2014, this Court instructed Plaintiff that, because it is a corporation, it cannot proceed *pro se*. The Court directed Plaintiff to appear through counsel by June 19, 2014. On May 27, 2014, Defendant Humana Health Plan, Inc. filed a motion to dismiss for lack of subject matter jurisdiction and for failure to state a claim upon which relief can be granted under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6).


Pursuant to Local Rule of Civil Procedure 7.02, a response to a motion to dismiss must be filed and served within fourteen days from the date of service of the motion.

However, a district court may extend the deadline to file a proper response under such circumstances. See N.D.W. Va. R. Civ. P. 7.02(b)(4) (“The judicial officer to whom the motion is addressed may modify the times for serving memoranda.”); Allied Colloids, Inc. v. Jadair, Inc., 139 F.3d 887, 1998 WL 112719, at \*1 (4th Cir. 1998) (per curiam) (noting that the district court granted the defendant corporation an extension of time to associate local counsel and file a proper response). Therefore, to permit Plaintiff to obtain counsel and timely respond to the pending motion to dismiss, this Court **ORDERS** that Plaintiff’s deadline for responding to the motion to dismiss be extended to fourteen days after Plaintiff enters an appearance by counsel, but in no event later than July 3, 2014, which is fourteen days after the June 19, 2014 deadline set by this Court for Plaintiff to appear by counsel.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to all counsel of record and *pro se* parties.

**DATED:** June 4, 2014

  
GINA M. GROH  
UNITED STATES DISTRICT JUDGE